

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Cynthia Graham Howe, Master-in-Equity

Appellate Case No. 2022-000134

Andrew Waldo; Jane Zheng; and SC Coast Properties, LLC
d/b/a Keller Williams Realty Petitioners,

v.

Michael Cousins; Founders Five, LLC d/b/a Sperry Van Ness
Founders Group; and South Carolina
Association of REALTORS®..... Respondents.

**NATIONAL ASSOCIATION OF REALTORS® MOTION FOR LEAVE
TO FILE AN *AMICUS CURIAE* BRIEF**

Pursuant to Rule 213, SCACR, the National Association of REALTORS® (NAR) moves for leave to file an *amicus curiae* brief in support of the South Carolina Association of REALTORS®. As permitted by Rule 213, NAR is conditionally filing its *amicus curiae* brief with this motion.

INTEREST OF NATIONAL ASSOCIATION OF REALTORS®

In 1908, NAR was founded to promote and encourage the highest and best use of the land, to protect and promote private ownership of real property, and to advance the professional competence of real estate licensees in their rendering of services to the public and their interaction with each other. NAR is a nonprofit professional association of persons engaged in all phases of

the real estate business, including brokerage, appraisal, management, and counseling. Its membership is comprised of 54 state and territorial associations of Realtors®; approximately 1,200 local associations of Realtors®; and approximately 1.5 million Realtor® and Realtor-Associate® members. The local associations provide services to their members and the public. But NAR also imposes upon local associations the obligation to enforce the Realtors® Code of Ethics. The Code of Ethics, to which all NAR members agree to adhere, requires all Realtors® to resolve any real estate-related controversies with other Realtors® through arbitration rather than litigation.

Indeed, NAR is an ardent proponent of arbitration of disputes among members. Courts have repeatedly recognized that the duty to arbitrate imposed upon Realtors® is reasonable, consistent with due process, and a source of significant judicial economy. From NAR's perspective, arbitration of disputes between members offers at least three benefits. *First*, arbitration affords Realtors® an opportunity to resolve disputes in a forum that is substantially faster and less expensive than litigation. *Second*, arbitration protects consumers of real estate services provided by Realtors® from being drawn into costly and time-consuming court battles between real estate professionals. *Third*, arbitration facilitates and encourages cooperation between Realtors® in the sale of properties by eliminating the risk of litigation related to disputes between them. This cooperation enhances the marketing of properties, the effectiveness of services provided to buyers and sellers, and the satisfaction of all parties to a real estate transaction.

This case is far more than an intramural dispute between two real estate firms over entitlement to a portion of a commission earned on the sale of a golf course. Given the breadth of NAR's membership and its mission to advance the professional competence of Realtors® rendering services to the public, NAR has a strong interest in this case, which has the potential to curb the laudable aims of arbitration and, consequently, the quality of these services. To that end,

NAR wishes to submit a brief as *amicus curiae* in support of the South Carolina Association of REALTORS®. NAR believes it can provide a useful voice as the Court considers whether the court of appeals correctly held the master-in-equity exceeded the scope of its authority in reviewing the Arbitration Award.

DESIRABILITY OF AMICUS CURIAE BRIEF

As explained in NAR’s brief, arbitrating disputes between its members affords great benefit both to those members and the public at large. The unwarranted intrusion of the courts into the arbitration process will have a considerable adverse impact on Realtors® and the customers and clients they serve. Here, the master-in-equity erred in employing a *de novo* review, instead of strictly limiting its review to the statutorily prescribed bases for reviewing an arbitration award, and in considering the merits of the Arbitration Award. Failure to apply the rules for appellate review properly and consistently will undercut the value of arbitration—which serves the interest of Realtors®, their customers, and their clients—and waste precious judicial resources. In turn, that will burden NAR’s members, their customers, and their clients with the time and cost of full-blown litigation for cases that should not be in court at all.

Accordingly, as the Court decides this case, NAR believes its *amicus curiae* brief offers a detailed analysis of the reasoning behind and ultimate benefits of arbitration.

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The Court should therefore grant NAR leave to file an *amicus curiae* brief and accept the enclosed brief as filed.

(Signature page to follow)

Respectfully submitted,

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